Civil Writ Petition No.5461 of 2005.

IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

...

Date of Decision: March **03,2008.**

V.K. Nigam **...** Petitioner

VERSUS

State of Haryana and others ... Respondents

CORAM : **HON'BLE MR.JUSTICE HEMANT GUPTA.**
HON'BLE MR.JUSTICE MOHINDER PAL.

1. Whether Reporters of Local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr.N.K. Malhotra, Advocate,
for the petitioner.

Mr. O.P. Sharma, Additional Advocate General, Haryana,
for the respondents.

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MOHINDER PAL, J.

The petitioner retired as Senior Lecturer, Applied Science Department, from Vaish Technical Institute, Rohtak (hereinafter referred to as `the respondent-Institute) on October

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31, 2004. While working as Senior Lecturer, he was granted the pay scale of Rs.2200-4000 + Rs. 200 as Special Pay. As on June 01, 1992, the basic pay of the petitioner in the said scale was Rs.2900 + Rs.200 Special Pay i.e. Rs.3100. The Government of Haryana revised the pay scale of Senior Lecturer from Rs.2200-4000 + Rs.200 Special Pay to Rs.3000-100-3500-125-4500 with effect from June 01, 1992. In the revised pay scale, pay of the petitioner was fixed at Rs.3100 as on June 01, 1992, which pay he was already getting in the pre-revised pay scale. While drawing pay in the pre-revised pay scale, the date of annual increment of the petitioner was August 01, 1992. Since the petitioner did not get any financial benefit in the revised pay scale as on June 01, 1992, the date of his annual increment remained unchanged and he got the annual increment of Rs.100 in the revised pay scale with effect from August 01, 1992. He continued to draw his annual increments with effect from August 01, 1993 and August 01, 1994 as well and his pay used to be fixed accordingly. Vide order dated July 14, 1998 (Annexure P-1), passed by the Principal of the respondent-Institute, basic pay of the petitioner was fixed at Rs.3100 with effect from June 01, 1992 and at Rs.3200 with effect from June 01, 1993 and so on, thus changing the original date of increment with effect from August 01, 1992 to June 01, 1992.

In this petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari, thereby quashing the order dated

July 14, 1998 (Annexure P-1) to the extent it has fixed pay of the petitioner in the revised pay scale of Rs.3000-4500 retrospectively with effect from June 01, 1992. The petitioner has also prayed for issuance of a writ in the nature of mandamus directing the respondents to re-fix his pay in the revised scale without changing his date of annual increment i.e August 01, 1992 with all consequential benefits.

In the written statement filed on behalf of respondents Nos. 1 to 3, it has been stated that the petitioner opted for revised scale of pay with effect from June 01, 1992 and ceased to draw pay in the pre-revised scale i.e. Rs.2000-3500 + 200 Special Pay from that date, as per his option (Annexure R-2). Therefore, his pay was fixed at Rs.3100/- as on June 01, 1992, in the revised pay scale and date of increment of the petitioner was to be June 01, 1993 and not August 01, 1993. However, inadvertently, the date of increment of the petitioner in the revised pay scale was kept unchanged i.e 1st June of every year. Pay of the similarly situated Lecturers in the respondent-Institute was also fixed on the same pattern. When the mistake came to notice, the same was rectified by passing the order dated July 14, 1998 (Annexure P-1). Plea of approaching this Court by way of filing the present writ petition in the year 2005 with a delay of about six years has also been taken in the written statement.

We have heard Mr.N.K. Malhotra, Advocate, appearing for the petitioner and Mr. O.P. Sharma, Additional Advocate

General, Haryana, appearing for the respondents and have gone through the records of the case.

It is well-settled by now that if by any order passed by the Government, the pay or the pay scale of an employee is changed, then he must be given another opportunity to give option of a date with effect from which the revised pay scale should be granted. In this petition, the prayer of the petitioner is that he may be given another chance to reopt a date in respect of grant of the revised pay scales as the date of his annual increment had been changed from 1st of August every year to 1st of June every year, on the basis that he had opted the revised pay scale with effect from June 01, 1992. A Division Bench of this Court in **Civil Writ Petition No.17996 of 1997 (Des Raj and others v. State of Haryana and others) decided on March 12, 1998 and in Civil Writ Petition No. 4377 of 1998 (R.P. Sharma v. State of Haryana and others) decided on November 09, 1998**, in similar cases as the present one, had allowed the prayer of the petitioner therein to give option of a date with effect from which revised pay scales should be granted, his pay be accordingly fixed as also his pension and other retiral benefits.

For the aforesaid reasons, this petition is allowed and the respondents are directed to give another opportunity to the petitioner to reopt the date in respect of grant of revised pay scales with effect from August 01, 1992 instead of June 01, 1992; meaning thereby his pay should be refixed in the

revised pay scale without changing his date of annual increment from August 01, 1992 since the petitioner did not get any financial benefit on June 01, 1992 on his placement in the revised pay scale. The petitioner will be entitled to all the consequential benefits flowing from the change of date of his annual increment from June 01, 1992 to August 01, 1992 i.e towards pension and other retiral benefits also. The petitioner should exercise his option within one month from the date of receipt of a copy of this order and the respondents should re-fix the salary of the petitioner and grant him the arrears etc. within three months thereafter.

(HEMANT GUPTA)
JUDGE

(MOHINDER PAL)
JUDGE

March 03, 2008.
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